

REMARKS

Reconsideration and allowance of the above-referenced application are respectfully requested. Claims 22, 32 and 33 are canceled, and new claims 41-43 are added. Claims 1-21, 23-31, and 34-43 are unchanged and remain pending in the application.

Claims 1, 11, 12, 18, 19, 29, 30, and 40 stand rejected under 35 USC §103 in view of US Patent No. 6,631,181 to Bates et al., US Patent No. 6,545, 589 to Fuller and US Patent No. 6,504,915 to Kruesi et al. This rejection is respectfully traversed.

Each of the independent claims 1, 12, 19, and 30 specify a server attempting retrieval of a subscriber announcement from a messaging server, where the subscriber announcement is stored in the messaging server as a first data file having a first size.¹ Each of the independent claims also specify retrieving an audible subscriber identifier, stored in the *directory* server, and playing for the messaging session an alternate subscriber announcement having the audible subscriber identifier, based on a determined *inaccessibility* of the stored subscriber announcement.

Hence, each of the independent claims explicitly specify that the audible subscriber identifier is retrieved from the directory server based on the determined *inaccessibility* of the stored subscriber announcement from the messaging server; consequently, the audible subscriber identifier is played as part of an “*alternate* subscriber announcement”.

As described in detail below, none of the references, singly or in combination, disclose or suggest determining an inaccessibility of a stored subscriber announcement, let alone accessing the audible subscriber identifier that is distinct from the messaging server, based on the determined inaccessibility of the subscriber announcement stored in the messaging server.

¹Claims 1, 19, and 30 each specify “attempting retrieval of a subscriber announcement for the messaging session from a messaging server ..., the subscriber announcement stored in the messaging server as a first data file having a first size”.

Claim 12 specifies “a first executable resource configured for attempting access to a messaging server according to a first open standard protocol, the messaging server storing a first file having a first size and that includes a subscriber announcement for a messaging session”.

Kruesi et al.

As admitted in the Official Action on page 3 (paragraph 10), “Bates and Fuller did not explicitly disclose determining an inaccessibility of the subscriber announcement.” The Official Action then argues that Kruesi et al. teaches “determining an inaccessibility of data stored on a network server”.

However, the Examiner’s own statements and the explicit teachings of the reference refute the Examiner’s assertion that Kruesi et al. teaches “determining an inaccessibility of the subscriber announcement”.

Specifically, the Examiner contradicts himself by stating on page 4 that “Kruesi ... determines an inaccessibility [sic] of a voice file at a certain node, in which case an alternate node is used to *access a file*.” Hence, the Examiner at first asserts a voice file is “inaccessible”, but in the same sentence asserts the file is accessible because another node is used to access the file. As demonstrated below, this logical contradiction is necessitated by a tortured interpretation of Kruesi et al. by the Examiner.

The Examiner relies on Fig. 5B and col. 9, line 52 through col. 10, line 6 for the teaching of “determining an inaccessibility of the subscriber announcement for the messaging session from the messaging server.” However, Figs. 5A, 5B, and 5C actually disclose that multiple nodes are granted access to voice files, with only the type of access (read/write access vs. read-only access) being changed based on one of the accessing nodes having encountered a failure:

The overall operation of the inventive shared disk, or shared voice file, architecture will now be summarized with reference to FIGS. 5A-5C. In the "normal mode" (FIG. 5A), *each node has read/write access to one voice file and read-only access to another voice file*. Thus, Node 1 has read/write access to voice file 1 and read-only access to voice file 2. Similarly, Node 2 has read/write access to voice file 2 and read-only access to voice file 1. In addition, each node may request that the other node delete certain specified messages from the voice file the other node has write access to.

In a "failure mode" (FIG. 5B), it is assumed that one of the nodes, say, Node 1, has failed and cannot read or write messages. In this case, the other node, Node 2, is given read/write access to voice file 1. In the "post-failure mode" (FIG. 5C), the failed node, Node 1, has recovered yet the other node, Node 2, maintains temporary read/write access to voice file 1. The nodes can continue to operate this way until the system administrator determines that "normal mode" should be reinstated. For example,

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the administrator may want to ensure that Node 1 is stable before giving it read/write access.

(Col. 9, line 52 to col. 10, line 6).

Hence, Kruesi et al. does not teach or suggest that the **voice file 1** is ever inaccessible, but rather that the voice file 1 remains *accessible* and that the Node 1 has failed and cannot read or write messages. Hence, Kruesi et al. assumes that the voice file 1 is **always accessible**, and simply grants Node 2 read/write access based on the failure of Node 1 to read voice file 1.

Hence, Kruesi et al. neither discloses nor suggests the claimed “*inaccessibility* of the subscriber announcement”, but rather that the voice file 1 is **always accessible**.

Further, the Examiner asserts that the hypothetical combination “satisfies the need for improved *file availability* in a messaging system. See Kruesi, column 3, lines 1-11”. However, col. 3, lines 1-11 specifically describe “*system ‘availability’*” by providing “multiple redundant messaging nodes in order to achieve high availability ... that would continue to provide access to messages stored in one disk file (say, voice file 12a) even when its corresponding host (server/NAP 10a) is inoperative.”

Hence, Kruesi et al. relies on the actual voice file 12a is **always accessible**, and that an alternate server is used to *retrieve* the voice file 12a from the same stored location. Hence, Kruesi et al. neither discloses nor suggests the claimed “determining an inaccessibility of the subscriber announcement ... *from the messaging server*” as asserted by the Examiner.

Moreover, Kruesi et al. neither discloses nor suggests the claimed server that retrieves second data (“the audible subscriber identifier”) from a second server (“directory server”) based on the determined inaccessibility of first data (“the subscriber announcement”) from a first server (“messaging server”). Rather, Kruesi et al. uses different servers to access the same data from the same storage location.

Hence, the hypothetical combination would neither disclose nor suggest that a single server would, *in response to* detecting an inaccessibility of a subscriber announcement from a messaging server, retrieve an audible subscriber identifier from a directory server and play an **alternate subscriber announcement** including the audible subscriber identifier, as claimed.

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For this reason alone, the §103 rejection should be withdrawn.

Bates et al.

Applicant traverses the tortured interpretation of Bates et al. by the Examiner: there is no disclosure or suggestion in Bates et al of a server attempting access from a separate messaging server, as claimed. Rather, Bates teaches a single voice messaging system (VMS) 10 having a processor 12, a nonvolatile memory 20 (storing subscriber profiles 24), and a disk memory 30 that stores all greeting announcements for a given subscriber (see col. 4, lines 12-30; Col. 4, line 66 to col. 5, line 1).

Hence, Bates et al. teaches that a single VMS 10 stores all necessary components (including subscriber profiles 12 and greetings 30), where all announcements are stored within the single VMS 10. Bates et al. simply provides a list of greeting announcements (see, e.g., Table 1 in col. 4) that can be used based on an association between caller ID data of an incoming call with one of the greeting announcements.

Applicant further traverses the Examiner's assertion in para. 9 that "Bates states the ability of his system to retrieve a default message and play this message *when a first particular greeting is unavailable*", because the Examiner's assertion improperly assumes the existence of the "first particular greeting" for the calling party, and that the default message is retrieved when the first particular greeting is "unavailable".

In fact, Bates et al. teaches that a default greeting (Announcement number "5") is used for any instance where a positive association to one of the context-specific greetings has not been established (see, e.g., Table 1 and column 4, lines 53-55: "Announcement number "5" refers to a standard greeting announcement that is a default for unknown caller Ids."). Figure 2 of Bates et al. also describes selecting the default greeting *not* based on unavailability of a stored greeting, but rather based on whether one of the existing pre-recorded readings is designated for the incoming call based on the caller ID:

Block 66 depicts capturing caller ID data for the incoming call transmission. Next, block 68 illustrates *comparing the captured caller ID with the caller ID pre-recorded greeting*

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designations for the subscriber; and the process passes to block 70.

Block 70 depicts a determination as to *whether or not a pre-recorded greeting is designated for the caller ID by the subscriber*. If a pre-recorded greeting is not designated for the caller ID or a portion thereof, then the process passes to block 72. Block 72 illustrates playing a default greeting message according to the subscriber profile; and the process passes to block 76. If a pre-recorded greeting is designated for the caller ID, then the process passes to block 74. Block 74 depicts playing the designated greeting according to the caller ID; and the process passes to block 76.

(Column 7, lines 8-22).

Hence, Bates et al. does not teach using a default greeting “when a first particular greeting is unavailable” (implying the existence of the first particular greeting) as asserted by the Examiner, but use of a default greeting when the “first particular greeting” does not exist!

In contrast, each of the independent claims specify determining the inaccessibility of the existing stored subscriber announcement.” Hence, Bates et al neither discloses nor suggests determining an inaccessibility (let alone “availability”) of the stored subscriber announcement, because Bates et al. assumes all stored announcements are available on the disk memory 30.²

Hence, the hypothetical combination would neither disclose nor suggest that a single server would, in response to detecting an inaccessibility of a subscriber announcement from a messaging server, retrieve an audible subscriber identifier from a directory server and play an alternate subscriber announcement including the audible subscriber identifier, as claimed.

For these and other reasons, the §103 rejection should be withdrawn.

² Also note that Bates et al. teaches that all of the greetings (including the default greeting) utilized by a subscriber are stored in the same disk memory 30 of Figure 1 (column 4, lines 21-30). Consequently, if for some reason (e.g., a failure of the disk memory 30) the disk memory 30 was no longer available, than the system of the primary reference with no longer be able to present any greeting to for an incoming call. This potential problem is *precisely* the problem that is addressed by the inventors, namely that a messaging server that is rendered inoperable (see page 4, lines 2-15 of the specification).

Fuller et al.

Applicant traverses the Examiner's assertion on pages 4-5 that Fuller suggests "retrieving from the directory server an audible subscriber identifier, stored in the directory server as a second file ... ***based on the determined inaccessibility*** [sic, unavailability] ***of the subscriber announcement.***" (Note the Nov. 15, 2005 Interview Summary and para. 10 of Feb. 6, 2006 Office Action acknowledging Bates and Fuller do not disclose determining "inaccessibility" of the subscriber announcement). The Examiner's assertion again ignores the explicit claim limitation that the subscriber announcement is, in fact, stored by the messaging server.

Fuller does not disclose or suggest retrieving the default announcement based on the inaccessibility/unavailability of the stored subscriber announcement; rather, Fuller explicitly describes with respect to Figs. 7 and 12b that the standard greeting type 704 is retrieved in step 1236 of Fig. 12b from the subscriber master record of Fig. 7: the standard greeting type 704 of Fig. 7 "defines the courtesy greeting announcement which the ***subscriber has selected*** for the Telephone Control System 1 to use when first answering a call" (col. 20, lines 19-23). The call processing facility 100 determines from the standard greeting type 704 whether the retrieved greeting is a "stock" greeting (step 1237), a "drop in" greeting (step 1240), or a "personalized" greeting (step 1245) (col. 25, lines 54-56 and 59-65 and col. 26, lines 6-12).

Hence, the type of greeting to use in Fuller et al. is ***selected by the user*** as specified by the standard greeting type 704, and not based on any determined unavailability or inaccessibility of any stored data.

Moreover, Fuller et al. explicitly teaches that **both** the "drop in" greeting (step 1240) and the "personalized" greeting (step 1245) are retrieved from the same source, namely disk 505 in the call processing facility 100 of Fig. 5, because all subscriber master records are stored on the disk 505 (col. 20, lines 1-2; col. 25, lines 62-65; col. 26, lines 6-12). Hence, Fuller et al. provides the same storage arrangement as Bates et al., where all subscriber announcements are stored on the same disk internal to the voice messaging system (10 of Bates et al., 100 of Fuller et al.).

Hence, the hypothetical combination would neither disclose nor suggest that a single

server would, *in response to* detecting an inaccessibility of a subscriber announcement from a messaging server, retrieve an audible subscriber identifier from a directory server and play an alternate subscriber announcement including the audible subscriber identifier, as claimed.

Conclusion

As apparent from the foregoing, none of the applied references, singly or in combination, teach or suggest the attribute of “unavailability” or “inaccessibility” of a stored subscriber announcement, as claimed. Rather, all of the references consistently teach that all of the data in existence is both “available” and accessible from the same location. Further, the Examiner’s assertions of obviousness demonstrate an improper disregard for the explicit claim limitation of determining the “inaccessibility” of the claimed stored subscriber announcement.

Hence, none of the applied references, singly or in combination, disclose or suggest that a single server would, *in response to* detecting an inaccessibility of a subscriber announcement from a messaging server, retrieve an audible subscriber identifier from a directory server that is *distinct* from either the claimed server or the messaging server, and play an alternate subscriber announcement including the audible subscriber identifier, as claimed.

The Federal Circuit has made clear that "particular findings must be made as to the reason the skilled artisan, with no knowledge of the claimed invention, would have selected these components for combination in the manner claimed." *In re Kotzab*, 55 USPQ2d at 1317. The showing of evidence of a suggestion, teaching or motivation to modify the references must be "clear and particular", else the rejection" simply takes the inventor's disclosure as a blueprint for piecing together the prior art to defeat patentability – the essence of hindsight." *In re Dembicza*k, 50 USPQ 1614, 1617 (Fed. Cir. 1999).

The §103 rejection fails to establish that one skilled in the art would have been motivated to detect an inaccessibility of the stored subscriber announcement from a messaging server, or *in response* retrieve the audible subscriber identifier from a directory server that is distinct from the messaging server. As such, the rejection is simply relying on Applicant's disclosure to synthesize a hindsight rejection that has no factual foundation.

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For these and other reasons, this §103 rejection of the independent claims should be withdrawn.

It is believed the dependent claims are allowable in view of their respective dependencies from independent claims 1, 12, 19, and 30, described above.

In view of the above, it is believed this application is in condition for allowance, and such a Notice is respectfully solicited.

To the extent necessary, Applicant petitions for an extension of time under 37 C.F.R. 1.136. Please charge any shortage in fees due in connection with the filing of this paper, including any missing or insufficient fees under 37 C.F.R. 1.17(a), to Deposit Account No. 50-1130, under Order No. 95-461, and please credit any excess fees to such deposit account.

Respectfully submitted,



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